UNITED STATES DISTRICT COURT '08 MJ 1519
SOUTHERN DISTRICT OF CALIFORNIA

08 MAY 15 PM 4:33

UNITED STATES OF AMERICA, Plaintiff, v.	)	Magistrate Case No.
	)	COMPLAINT FOR VIOLATION OF:
	)	Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii) Transportation of Illegal Aliens
1.) Jose Ramon VALADEZ, **2.) Octavio SIXTO** **3.) Maria GONZALEZ** **4.) Rogaciano OROZCO-Flores** **5.) Jose Luis OROZCO-Diaz**	)	Title 8 U.S.C., Sec. 1324 (a)(2)(B)(iii) Bringing in Illegal Aliens without Presentation
	)	Title 8 U.S.C., Sec. 1324 (a)(1)(A)(iii) Harboring and Concealing (Felony)
	)	Title 18, U.S.C., Sec.2 Aiding and Abetting
Defendant(s).	)	

The undersigned complainant, being duly sworn, states:

COUNT ONE

On or about **May 14, 2008,** within the Southern District of California, defendant **Jose Ramon VALADEZ and Octavio SIXTO** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Miguel Angel TORRES-Servin** and **Amelia PEREZ-Campos** had come to, entered and remained in the United States in violation of law; did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

COUNT TWO

On or about **May 14, 2008,** within the Southern District of California, defendant **Jose Luis OROZCO-Diaz**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Miguel Angel TORRES-Servin and Amelia PEREZ-Campos,** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

COUNT THREE

On or about **May 14, 2008** within the Southern District of California, defendant **Rogaciano OROZCO-Flores,** knowing and in reckless disregard of the fact that certain aliens, namely, **Miguel Angel TORRES-Servin and Amelia PEREZ-Campos**, had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection said aliens, and attempt to conceal, harbor and shield from detection said aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

COUNT FOUR

On or about **May 14, 2008,** within the Southern District of California, defendant **Maria GONZALEZ** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Miguel Angel TORRES-Servin** and **Amelia PEREZ-Campos** had come to, entered and remained in the United States in violation of law, did Aid and Abet, said aliens within the United States in furtherance of such violation of law; in violation of Title 18, United States Code, Section 2.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
John R. Wallace
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **15th** DAY OF **MAY 2008**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

1.) Jose Ramon VALADEZ
2.) Octavio SIXTO
3.) Maria GONZALEZ
4.) Rogaciano OROZCO-Flores
5.) Jose Luis OROZCO-Diaz

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Miguel Angel TORRES-Servin and Amelia PEREZ-Campos,** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

During the morning of May 14, 2008, the infrared scope operator working at the "6.5" mile scope site observed a pair of suspected illegal aliens moving into an area know by agents as the "cove." The same scope operator later observed four other suspected illegal aliens go to the same cove. This information was relayed to members of the Chula Vista Station all terrain vehicle unit. The 6.5 mile scope site is located north of the 6.5 mile marker on Otay Lakes Road in Chula Vista, California, hence the name of the scope site.

Border Patrol agents operating in this area are aware that alien smugglers, who may be part of the same organization, rent boats and cross the lake to pick up the aliens staged in the cove. The boats return to the pathway near the northern parking lot and offload the illegal aliens into the vehicles waiting there. The members of the organization then return the boats to the rental facility and depart in the remaining vehicles parked in the northern lot. The smugglers typically rent the boats for the full day at the rate of $35 and return them in less than two hours. The water department employees have found this activity suspicious and have alerted the Border Patrol in the past.

Border Patrol agents also determined that the use of the northern parking is also significant in that this area is effectively screened off from the rental office by an unused administrative building. This affords the smugglers privacy for their operations. This lot also is convenient for alien smuggling because it has parking near a paved foot path that goes down to the waters edge and allows the boats with illegal aliens aboard to be unloaded amongst clumps of reeds that further cover their illegal activities. This stands in stark contrast to the use of the southern parking lot by legitimate fisherman, based on its close proximity to the boat launching ramp and the rental office.

Border Patrol agents have seized vehicles in prior smuggling events in this area. These vehicles have been registered to addresses in Fallbrook, Escondido and Santa Ana, California. Several of the vehicles were sport utility vehicles with silver rims and stickers for Mexican soccer teams. These vehicles were not consistent with the normal vehicles that agents who work the area have become accustomed to seeing in the area driven by legitimate fisherman and outdoor enthusiasts. One load house in Escondido, California was later found connected to the organization.

On Wednesday, May 14, 2008, at approximately 6:30 a.m., SPA's M. Leon and A. Hinojosa entered the northern parking lot of the launch facility as part of the anti-smuggling patrol given the Border Patrol agents' knowledge of the area as frequented by smugglers. They immediately observed a green Ford Eddie Bauer Explorer sport utility vehicle parked alone. The vehicle was similar to the aforementioned vehicles utilized by the smuggling organization that utilize the northern parking lot. The vehicle had custom silver rims and very thin tires that stood out to the agents. The agents also observed a "We support Escondido Police 2008" sticker in on the front windshield, and chromed wiper blade arms. The sticker was significant to the agents as it established that vehicle was most likely being used by someone who lived in or regularly visits Escondido.

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Agent Leon and Hinojosa had also overheard radio broadcasts of seismic sensors going off near the cove and a subsequent search by Chula Vista Border Patrol Agents on all terrain vehicles for suspected illegal aliens in the cove area. The agents left the cove without making any arrests just prior to Agents Leon and Hinojosa arriving at the boat ramp.

Approximately five minutes later, agents observed two male Hispanics walking northbound in the parking lot. Neither individual was carrying a fishing pole or tackle box. Neither subject was carrying any fish. Agent Hinojosa and Leon drove over the vehicle and made contact with the two individuals. Both agents identified themselves as Border Patrol Agents and displayed their agency issued badges on their chests. Agent Hinojosa spoke to Jose Ramon VALADEZ, the driver, and determined that he was a lawful permanent resident. Agent Hinojosa also determined that VALADEZ was not licensed to drive, a violation of the California Motor Vehicle Code. VALADEZ stated that he was living in Fallbrook, California.

Agent Leon spoke with Octavio Bernave SIXTO, the passenger, and determined that he was a United States citizen living in Fallbrook, California. The agents determined that both subjects had rented a boat together and went fishing. They stated that they had gone fishing for about a half hour and realized they did not have bait. SIXTO and VALADEZ stated that they were going to go to Walmart for bait.

Agent Hinojosa requested permission to search the vehicle from VALADEZ who gave him the keys and said go ahead. Agent Hinojosa discovered an insurance card for Jose Luis OROZCO Diaz and a receipt from Circuit City bearing the same name in the glove compartment of the vehicle. A common address on Orange Avenue in Escondido, California was on both pieces of paper. When asked by Agent Hinojosa whose vehicle he was driving, VALADEZ replied it was his friend Jose's. Agent Leon went to the boat rental office and confirmed that VALADEZ and SIXTO had rented the boat. Agent Leon requested that dispatch run record checks on both subjects. A short time later dispatch notified him that VALADEZ had a prior arrest in 2006 for alien smuggling.

Agent Leon contacted SBPA Wallace and notified him of the situation. Agent Wallace ran further record checks and determined that VALADEZ had been arrested by the Military Police at Camp Pendleton while transporting four illegal aliens. During that arrest, VALADEZ freely admitted to agents he was going to be paid $300.00 and that a person known to him as Porfirio DIAZ had given him instructions to bring the aliens to Escondido. SBPA Wallace immediately recognized the name Porfirio DIAZ as he had arrested DIAZ on April 2, 2008 during a similar alien smuggling event in the same parking lot. Agent Wallace relayed this information to Agent Leon and told him to arrest both subjects based on the collective belief of all three agents that probable cause existed to arrest VALADEZ and SIXTO for participating in the conspiracy to commit alien smuggling.

On May 14, 2008, at approximately 9:45 a.m., North County Smuggling Interdiction Agents (NCSIG) received a phone call from Supervisory Border Patrol Agent (SBPA) John Wallace. SBPA Wallace advised that he had apprehended an alien smuggling load and that one of the principles, Jose Ramon VALADEZ, had a piece of paper in his control that contained the name of Jose Luis OROZCO-Diaz with an address on Orange Avenue in Escondido, California.

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5.) Jose Luis OROZCO-Diaz

Based on this information, NCSIG agents responded to the above-mentioned address and made a consensual encounter with the occupants of the residence. At approximately 12:30 p.m., Agents T. Shigg, H. Martinez and N. Gonzalez approached the partially open front door of the residence in question. As the Agents approached the door, Agent Gonzalez saw a male resident, who was sitting next to the front door, get up quickly, almost running, and go to the back of the residence as he saw the Agents approach the front door. As Agent T. Shigg knocked on the front door, the same male resident returned and answered the door along with a female resident. Agent Shigg identified himself as a United States Border Patrol Agent and requested permission to enter into the residence. The male resident gave consent to enter. Agent N. Gonzalez then asked the male resident for permission to search the residence and he and the female gave consent. While agents searched the house, an immigration inspection was conducted on the two residents who answered the door. The male subject was identified as **Rogaciano OROZCO-Flores** and the female subject was identified as Paola OROZCO-Flores. Both subjects freely admitted to being citizens of Mexico illegally present in the United States. A search of the residence revealed a female, identified as Amelia PEREZ-Campos, hiding inside of the shower. PEREZ was located in an area where OROZCO-Flores, Rogaciano had hurried to before he answered the front door. An immigration inspection of PEREZ revealed that she was a citizen of Mexico illegally present in the United States.

Agents continued their search and located two other subjects outside in the backyard. One subject was identified as **Jose Luis OROZCO-Diaz**; the same person identified by the piece of paper in VALADEZ' control and the other subject was identified as Miguel Angel TORRES-Servin. An immigration inspection was conducted on both of these subjects which revealed that they were citizens of Mexico also illegally present in the United States. While agents continued the search of the residence, the residential phone rang and was answered by Agent H. Martinez. Agent Martinez stated that an unknown female was the caller and that she stated that she was on her way to pick them up and take them to Riverside. Caller ID on the residential line displayed that the caller was calling from 760-258-4911. Approximately ten minutes later, Rogaciano OROZCO-Flores', cellular phone rang. Agent E. Ortega answered the phone. The caller on the line was also a female and asked for Paola and Jose Luis. The caller ID feature on the cellular phone displayed that the caller was calling from 760-258-4911. This phone number was documented as possibly belonging to an associate to this smuggling event. At approximately 1:00 p.m., all five subjects were placed under arrest and transported to the Murrieta Border Patrol Station for processing and further investigation.

As NCSIG Agents Gandre and Shigg were leaving the residence, they observed a red Honda Accord parked in the opening of an alley with two female occupants. The vehicle was parked down the street from the residence of the arrests and the females appeared to be intently watching the agents at the residence. As Agents N. Gonzalez and M. Gonzalez were leaving the residence, the red Honda Accord passed them very slowly and the females were looking in the direction of the residence and the agents. The agents thought this was suspicious behavior and decided to further investigate the females in the vehicle. As the agents turned around to investigate, the vehicle drove towards the residence and parked in front of the residence across the street.

Agent N. Gonzalez made consensual contact with the occupants of the vehicle, and identified himself as a United States Border Patrol Agent. The driver, identified as **Maria GONZALEZ**, stated that she was a Mexican citizen who is Lawfully Admitted for Permanent Residence. The passenger, identified as Marbella FIERROS-Gutierrez, admitted to being a citizen of Mexico illegally present in the United States. A consensual search of GONZALEZ' cellular phone revealed that the last call made was to the phone number belonging to OROZCO-Flores, Rogaciano; one of the individuals arrested at the residence. The phone number to GONZALEZ' cell phone matched the same phone number that appeared on the residential phone and OROZCO-Flores, Rogaciano's cell phone caller ID. The agents questioned both females about their

presence in the area. They stated, with hesitation, that they were on their way to the store. They were asked if they were going to the residence the agents just left and they denied it. They stated they didn't know the occupants or the residence. GONZALEZ and FIERROS were placed under arrest for possible involvement in aiding and abetting of smuggled illegal aliens associated with the above residence. They were then transported to the Murrieta Border Patrol Station for processing and further investigation. GONZALEZ' Honda was searched and non perishable food was discovered in the trunk along with many articles of clothing. Alien smugglers usually carry food and clothing for smuggled aliens. The food is part of the arrangement and after traveling by foot, smuggled aliens are usually dirty from the desert, brush and wearing the same clothes for days. Clean clothes help to disguise the alien's recent entry.

DEFENDANT STATEMENT Jose Ramon VALADEZ:

Defendant Jose Ramon VALADEZ was advised of his Miranda Rights in the English language which he understood and was willing to answer questions freely without an attorney present. VALADEZ stated that he is a citizen of Mexico and that he currently has a resident alien card allowing him to enter or remain in the United States legally. He stated that he has had it for about the last two or three years.

VALADEZ stated he started in the smuggling business approximately 2 to 3 years ago with his brother-in-law Porfirio DIAZ. He said that he would accompany DIAZ to the lake to rent a boat and pick up people on the other side and transport them back to the parking lot west of the lake. He stated that he would pick up approximately 2 to 5 individuals. He said that sometimes they would make 2 trips across the lake depending on how many people were smuggled. VALADEZ stated that he usually accompanied DIAZ on Wednesdays and the weekends. He stated that there would be people waiting in cars at the parking lot to transport the smuggled aliens to Escondido. He stated that DIAZ had two cousins who worked for him, named Juan Allegre and Luis. He stated that Allegre walked with a limp and believed he had been in an accident. He said that they were paid $100.00 dollars for each smuggled alien.

VALADEZ stated that the first time he did it he was working for DIAZ. He stated that he needed the money because his dad was sick. He stated that he rented a boat and picked up three smuggled aliens at the lake. He stated that he was going to transport them back to Escondido where DIAZ was to pay him $300.00 dollars. VALADEZ stated that the military police stopped them and called the Border Patrol. He said he was arrested and transported to the San Clemente station.

VALADEZ stated that he had not smuggled until about a month ago. He stated that he was called by Luis stating that he needed him to go pick up people at the lake and that he would pay $150.00 dollars per smuggled alien. He stated that, approximately two weeks ago on a Saturday, he went to the lake and picked two smuggled aliens with Luis. He stated that Luis is the foot-guide who leads the smuggled aliens through the mountains. VALADEZ stated that the smuggled aliens and Luis got in a car and were transported to Escondido.

VALADEZ stated that yesterday morning he received a phone call from Luis instructing him that he needed him to go to the lake tomorrow and pick them up. VALADEZ stated that Luis told him to go to his house and pick up his truck. He stated that yesterday he went to Luis's house in Escondido and his sister gave him the keys to Luis's truck. He stated that today he left his house at 4:40 a.m, accompanied by his buddy Octavio. VALADEZ stated that he was introducing his buddy Octavio into the smuggling business.

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VALADEZ stated that he and Octavio arrived to the lake and rented a boat and took a ride across the lake to pick up Luis who had guided a female and male. He stated that they took them back towards the lake and dropped them off. He stated that they got in a white vehicle. He stated that Octavio had also accompanied him the last time he picked up at the lake and he gave him $100.00 dollars for helping him. He stated that he was also going to give Octavio $100.00 dollars for helping him today. He stated that Luis also knows Octavio.

VALADEZ was shown a photographic line up and was able to identify **Jose Luis OROZCO-Diaz** as the foot-guide and the individual who he works for, **Rogaciano OROZCO-Flores** as the brother of Luis and who has seen him at Luis's house around the smuggled aliens, and **Paola OROZCO-Flores** as the sister of Luis who gave him the keys to Luis's truck.

DEFENDANT STATEMENT Octavio SIXTO:

Defendant Octavio SIXTO provided a videotaped post-Miranda statement which was freely given in the Spanish language. SIXTO stated that he is a United States citizen and that he was born in Fallbrook, California.

When asked to explain how he had become involved in the smuggling of undocumented aliens, SIXTO stated that about a month ago a friend of his, Jose Ramon, who lives in the same apartment complex, had asked him if he wanted to go with him to smuggle some people. When asked to explain what kind of people he meant, SIXTO stated "illegal people". He stated that he had agreed and it was explained that they were going to go to a lake, rent a boat and then ferry the smuggled aliens across the lake.

SIXTO said that they went to the lake and Jose Ramon paid for the boat rental and fishing licenses. They then went across the lake where they picked up a guy named Luis and two smuggled aliens and shuttled them over to the western side of the lake where the boat rental place was. SIXTO stated that they dropped off Luis and the aliens who were then picked up by a vehicle and taken north. SIXTO stated that, for his participation, he had been paid $100.00 (USD) which he had received the next day.

SIXTO stated that yesterday at about 8:00 or 9:00 p.m. Jose Ramon had again approached him and asked if he wanted to go with him to smuggle more aliens, and he had again agreed. SIXTO said that he was to have gotten some money from Jose Ramon, but that it was going to be less than the $100.00 he had received last time. He stated that in the morning he had gotten up and waited outside for Jose Ramon, who drove the two of them to the lake in a Ford Explorer. SIXTO said that he thought the Explorer had been green in color. SIXTO said that they crossed the lake and went to the same spot near the reeds where they picked up a group of about four undocumented aliens, including Luis. They brought these persons across the lake to a spot near the bathroom, where they got out and loaded into a white Dodge Stratus. SIXTO said that he believed that a guy name Jose (not the same subject as Jose Ramon) had been driving the Stratus, but that he was not sure since the windows were tinted. SIXTO said that the aliens and Luis were taken north in the Stratus.

SIXTO said that he and Jose Ramon were still intending to do some fishing, but they had only brought two poles and nothing else. As a result they had decided to go to Walmart to buy some bait, and had turned the keys in to the rental office, with the intention of still coming back to fish. SIXTO said that they had left the

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fishing poles in the boat. He stated that as they were going back to the car they were approached by some plainclothes agents and then arrested. SIXTO was shown a photographic line up and was able to identify **Paola OROZCO-Flores** as a woman whom he had seen once in Escondido, **Rogaciano OROZCO-Flores** as another subject whom he had seen together with Paola OROZCO-Flores, and **Jose Luis OROZCO-Diaz** as another subject whom he had seen before and the subject whom they had picked up together with the smuggled aliens on the opposite side of the lake on both occasions.

DEFENDANT STATEMENT Jose Luis OROZCO-Diaz:

Defendant Jose Luis OROZCO-Diaz was advised of his Miranda rights in the Spanish language which he understood and was willing to answer questions without a lawyer present. OROZCO-Diaz stated that he is a citizen of Mexico. OROZCO-Diaz stated that he crossed illegally through the mountains near Tecate, California approximately twenty five days ago. OROZCO-Diaz stated that he has no legals documents to enter or remain in the United States legally. OROZCO-Diaz stated that he paid an unknown smuggler $1,800 USD to be smuggled to Vista, California. OROZCO-Diaz stated he has lived at the address where he was encountered today since February, 2008. OROZCO-Diaz also stated that he let defendant Jose Ramon VALADEZ use his Ford Explorer.

DEFENDANT STATEMENT Rogaciano OROZCO-Flores:

Defendant Rogaciano OROZCO-Flores was advised of his Miranda rights in the Spanish language which he understood and was willing to answer questions without a lawyer present. OROZCO-Flores stated that he is a citizen of Mexico. OROZCO-Flores stated that he crossed illegally through the mountains near Tecate approximately ten days ago. OROZCO-Flores admitted to crossing into the United States illegally near Tecate, California. OROZCO-Flores stated that he has no legal documents to enter or remain in the United States legally. OROZCO-Flores stated that he paid an unknown smuggler $1,500 USD to be transported to Escondido, California. OROZCO-Flores stated he rented that house 9 months ago. OROZCO-Flores stated that people arrived at 9 a.m.

OROZCO was shown a photographic line up and was able to identify **Jose Luis OROZCO-Diaz** as his cousin, **Maria GONZALEZ** and **Marbella FIERROS-Gutierrez** as friends, Paola OROZCO-Flores as his sister.

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Amelia PEREZ-Campos and Miguel Angel TORRES-Servin** agree in summary that they are citizens and nationals of Mexico illegally present in the United States. They admit to entering the United States illegally. The material witnesses stated that they were to pay $2,000.00 (USD) to be smuggled into the United States. Material witnesses TORRES-Servin and PEREZ-Campos were shown a photographic line up and were able to identify **Jose Luis OROZCO-Diaz** as one of the foot guides that they followed through the mountains and as a person at the house who brought them food and gave them shoes, **Jose Ramon VALADEZ** as the driver of the boat, and **Octavio SIXTO** as a person being on the boat. TORRES and PEREZ stated that they got into a Ford Explorer and were taken to the house where they were encountered and arrested. TORRES and PEREZ stated that two people were at the house when they arrived. TORRES and PEREZ also identified **Rogaciano OROZCO-Flores** as a person at the house.